

AMENDED IN ASSEMBLY JULY 2, 2008

AMENDED IN ASSEMBLY JUNE 16, 2008

AMENDED IN SENATE APRIL 22, 2008

AMENDED IN SENATE APRIL 10, 2008

SENATE BILL

No. 1714

Introduced by Senator Negrete McLeod

(Coauthors: Assembly Members Fuentes and Huffman)

February 22, 2008

An act to amend Section 399.20 of, and to add Section 387.6 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1714, as amended, Negrete McLeod. Renewable electric generation facilities.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity by electrical corporations and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). Under existing law the governing board of a local publicly owned

electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that is an eligible renewable energy resource and meets other size, deliverability, and interconnection requirements. Existing law requires the electrical corporation to make this tariff available to public water or wastewater agencies that own and operate an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities equals 250 megawatts. Existing law requires that the electric generation facility be located on property owned or under the control of the public water or wastewater agency and be sized to offset part or all of the generator's electricity demand. Existing law limits the effective capacity of the electric generation facility to not larger than one megawatt, but authorizes the commission to extend availability of the tariff to electric generation facilities not larger than one and one-half megawatts. Existing law provides that the electricity generated by an electric generation facility counts toward the electrical corporation's renewables portfolio standard and provides that the physical generating capacity counts toward meeting the electrical corporation's resource adequacy requirements.

This bill would instead require every electrical corporation ~~on and after July 1, 2009,~~ to file with the commission a standard tariff for the electricity ~~generated by~~ *purchased from* an electric generation facility with an effective capacity of not ~~larger~~ *more than 1.5* 3 megawatts, *subject to the authority of the commission to reduce this megawatt limitation, discussed below,* and would require ~~an~~ the electrical corporation to make the tariff available to any customer that owns and operates an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities subject to tariffs with electrical corporations, reaches 500 megawatts. The bill would require the commission, in consultation with the Independent System Operator, to monitor and examine the impact on the transmission and distribution

grid and any effects upon ratepayers resulting from electric generation facilities operating pursuant to these provisions, *would require the commission to establish performance standards for any electric generation facility that has a capacity greater than one megawatt to ensure that those facilities do not impact system reliability, and would authorize the commission to reduce the 3 megawatt capacity limitation if the commission finds that a reduced capacity limitation is necessary to maintain system reliability within that electrical corporation's service territory.* The bill would provide that the actual generating capacity of an electric generation facility counts toward meeting the electrical corporation's resource adequacy requirements. The bill would require a local publicly owned electric utility that sells electricity at retail to 75,000 or more customers, ~~by July 1, 2009,~~ to adopt and implement a tariff for electricity ~~generated by~~ *purchased from* an electric generation facility meeting certain size, deliverability, and interconnection requirements and to consider certain factors. The bill would require the local publicly owned electric utility to make the tariff available to customers that own and operate an electric generation facility within the service territory of the utility, upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity of those electric generation facilities subject to tariffs with local publicly owned electric utilities, reaches 250 megawatts. The bill would provide that the electricity purchased from the electric generation facility counts towards meeting the local publicly owned electric utility's renewables portfolio standard annual procurement targets. The bill would provide that a customer that receives service pursuant to a tariff adopted by an electrical corporation or local publicly owned electric utility pursuant to the above-described provisions is not eligible for any other ratepayer-funded incentive or net metering program. The bill would provide that a customer of an electrical corporation is not eligible to receive service pursuant to the tariff or contract approved by the commission pursuant to the bill's provisions if the customer has received any ratepayer-funded incentive for the electric generation facility, or if the customer participated in a commission approved net metering tariff or contract for the electric generation facility.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime. Because this bill would require an order or other action of the commission to implement its provisions, and a violation of that order or action would be a crime, the bill would

impose a state-mandated local program by creating a new crime. By placing *additional* requirements upon local publicly owned electric utilities, which are entities of local government, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The state should encourage the reduction of electricity
4 demand at customer sites and increase generating capacity in order
5 to meet the demand for electricity.

6 (b) Some tariff structures and regulatory structures are presenting
7 a barrier to meeting the requirements and goals of the California
8 Renewables Portfolio Standard Program (Section 387 of, and
9 Article 16 (commencing with Section 399.11) of Chapter 2.3 of
10 Part 1 of Division 1 of, the Public Utilities Code).

11 (c) Small projects of less than ~~four~~ 3 megawatts that are
12 otherwise eligible renewable energy resources may face difficulties
13 in participating in competitive solicitations under the renewables
14 portfolio standard program.

15 (d) A tariff that allows customers of electrical corporations and
16 local publicly owned electric utilities to sell electricity generated
17 by renewable technologies would address these barriers and could
18 assist in the achievement of the renewables portfolio standard and
19 the state's goals for reducing emissions of greenhouse gases
20 pursuant to the California Global Warming Solutions Act of 2006.

21 (e) A tariff for electricity generated by renewable technologies
22 should recognize the environmental attributes of the renewable
23 technology, the characteristics that contribute to peak electricity
24 demand reduction, reduced transmission congestion, avoided
25 transmission and distribution improvements, and in a manner that
26 accelerates the deployment of renewable energy resources.

(f) It is the policy of this state and the intent of the Legislature to encourage the generation of electricity from eligible renewable energy resources at the sites where the electricity will be utilized.

SEC. 2. Section 387.6 is added to the Public Utilities Code, to read:

387.6. (a) It is the policy of the state and the intent of the Legislature to encourage electrical generation from eligible renewable energy resources in an amount commensurate with a customer's demand for electricity.

(b) As used in this section, "electric generation facility" means an electric generation facility, owned and operated by a retail customer of ~~an electrical corporation~~ *a local publicly owned electric utility*, and that meets all of the following criteria:

(1) Has an effective capacity of not more than ~~4.5~~ 3 megawatts and is located on property owned or under the control of the customer. Premises that are leased by the customer are under the control of the customer for purposes of this requirement. It is not required that the customer own the electric generation facility.

(2) Is interconnected and operates in parallel with the electric transmission and distribution grid.

(3) Is strategically located and interconnected to the electric transmission system in a manner that optimizes the deliverability of electricity generated at the facility to load centers.

(4) Is an eligible renewable energy resource, as defined in Section 399.12.

(c) A local publicly owned electric utility that sells electricity at retail to 75,000 or more customers shall adopt a standard tariff for electricity ~~generated by~~ *purchased from* an electric generation facility.

(d) The governing board of the local publicly owned electric utility shall establish a tariff and shall consider all of the following:

~~(1) Benefits from reduced transmission congestion.~~

~~(2) Benefits from reduced transmission and distribution grid expansions and upgrades.~~

~~(3) Benefits from reducing emissions of greenhouse gases.~~

~~(4) Benefits from advancing the use of developing technologies.~~

~~(5) The cost of generation utilizing an eligible renewable energy resource.~~ *utility shall ensure that the tariff adopted pursuant to subdivision (c) reflects the value of every kilowatthour of electricity generated on a time-of-delivery basis. The governing board may*

1 *adjust this value based on the other attributes of renewable*
2 *generation. The governing board shall ensure that ratepayers that*
3 *do not receive service pursuant to the tariff are indifferent to*
4 *whether a ratepayer with an electric generation facility receives*
5 *service pursuant to the tariff.*

6 (e) A local publicly owned electric utility that sells electricity
7 at retail to 75,000 or more customers shall make the tariff available
8 to customers that own and operate an electric generation facility
9 within the service territory of the utility, upon request, on a
10 first-come-first-served basis, until the combined statewide
11 cumulative rated generating capacity of those electric generation
12 facilities reaches 250 megawatts. A local publicly owned electric
13 utility may make the terms of the tariff available to customers in
14 the form of a standard contract. A local publicly owned electric
15 utility is only required to offer service or contracts under this
16 section until the utility meets its proportionate share of the 250
17 megawatts based on the ratio of its peak demand to the total
18 statewide peak demand.

19 (f) Every kilowatthour of electricity purchased from the electric
20 generation facility shall count toward the local publicly owned
21 electric utility's renewables portfolio standard annual procurement
22 targets for purposes of Section 387.

23 (g) (1) *A local publicly owned electric utility may establish*
24 *performance standards for any electric generation facility that*
25 *has a capacity greater than one megawatt to ensure that those*
26 *facilities do not impact system reliability.*

27 (2) *A local publicly owned electric utility may reduce the 3*
28 *megawatt capacity limitation of paragraph (1) of subdivision (b)*
29 *if the utility finds that a reduced capacity limitation is necessary*
30 *to maintain system reliability within its service territory.*

31 SEC. 3. Section 399.20 of the Public Utilities Code is amended
32 to read:

33 399.20. (a) It is the policy of this state and the intent of the
34 Legislature to encourage electrical generation from eligible
35 renewable energy resources in an amount commensurate with a
36 customer's demand for electricity.

37 (b) As used in this section, "electric generation facility" means
38 an electric generation facility, owned and operated by a retail
39 customer of an electrical corporation, and that meets all of the
40 following criteria:

1 (1) Has an effective capacity of not more than ~~1.5~~ 3 megawatts
2 and is located on property owned or under the control of the
3 customer. Premises that are leased by the customer are under the
4 control of the customer for purposes of this requirement. It is not
5 required that the customer own the electric generation facility.

6 (2) Is interconnected and operates in parallel with the electric
7 transmission and distribution grid.

8 (3) Is strategically located and interconnected to the electric
9 ~~transmission system in a manner that optimizes the deliverability~~
10 ~~of electricity generated at the facility to load centers.~~ *grid in a*
11 *manner that is considered deliverable to load, pursuant to the*
12 *Independent System Operator deliverability assessments.*

13 (4) Is an eligible renewable energy resource, as defined in
14 Section 399.12.

15 (c) Every electrical corporation shall file with the commission
16 a standard tariff for electricity ~~generated by~~ *purchased from* an
17 electric generation facility.

18 (d) The tariff shall provide for a base payment rate for every
19 kilowatthour of electricity ~~generated by~~ *purchased from* an electric
20 generation facility at the market price as determined by the
21 commission pursuant to Section 399.15 for a period of 10, 15, or
22 20 years, as authorized by the commission. The commission ~~shall~~
23 ~~consider, and may adjust the tariff base payment rate to reflect,~~
24 ~~any of the following:~~

25 ~~(1) Benefits from reduced transmission congestion.~~

26 ~~(2) Benefits from reduced transmission and distribution grid~~
27 ~~expansions and upgrades.~~

28 ~~(3) Benefits from reducing emissions of greenhouse gases.~~

29 ~~(4) Benefits from advancing the use of developing technologies.~~

30 ~~(5) The cost of generation utilizing an eligible renewable energy~~
31 ~~resource.~~ *may adjust the payment rate to reflect the value of every*
32 *kilowatthour of electricity generated on a time-of-delivery basis*
33 *and any other attributes of renewable generation. The commission*
34 *shall ensure that ratepayers that do not receive service pursuant*
35 *to the tariff are indifferent to whether a ratepayer with an electric*
36 *generation facility receives service pursuant to the tariff.*

37 (e) Every electrical corporation shall make this tariff available
38 to customers that own and operate an electric generation facility
39 within the service territory of the electrical corporation, upon
40 request, on a first-come-first-served basis, until the combined

1 statewide cumulative rated generating capacity of those electric
2 generation facilities reaches 500 megawatts. An electrical
3 corporation may make the terms of the tariff available to customers
4 in the form of a standard contract subject to commission approval.
5 Each electrical corporation shall only be required to offer service
6 or contracts under this section until that electrical corporation
7 meets its proportionate share of the 500 megawatts based on the
8 ratio of its peak demand to the total statewide peak demand.

9 (f) Every kilowatthour of electricity purchased from the electric
10 generation facility shall count toward the electrical corporation's
11 renewables portfolio standard annual procurement targets for
12 purposes of paragraph (1) of subdivision (b) of Section 399.15.

13 (g) The actual generating capacity of an electric generation
14 facility shall count toward the electrical corporation's resource
15 adequacy requirement for purposes of Section 380.

16 (h) (1) The commission, in consultation with the Independent
17 System Operator, shall monitor and examine the impact on the
18 transmission and distribution grid and any effects upon ratepayers
19 resulting from electric generation facilities operating pursuant to
20 a tariff or contract approved by the commission pursuant to this
21 section.

22 (2) *The commission shall establish performance standards for*
23 *any electric generation facility that has a capacity greater than*
24 *one megawatt to ensure that those facilities do not impact system*
25 *reliability.*

26 (3) *The commission may reduce the 3 megawatt capacity*
27 *limitation of paragraph (1) of subdivision (b) if the commission*
28 *finds that a reduced capacity limitation is necessary to maintain*
29 *system reliability within that electrical corporation's service*
30 *territory.*

31 (i) (1) A customer shall not be eligible to receive service
32 pursuant to a tariff or contract approved by the commission
33 pursuant to this section if the customer has received any
34 ratepayer-funded incentive for the electric generation facility, or
35 if the customer participated in a commission approved net metering
36 tariff or contract for the electric generation facility.

37 (2) A customer that receives service under a tariff or contract
38 approved by the commission pursuant to this section shall not be
39 eligible for any other ratepayer-funded incentive or net metering
40 program.

1 (j) (1) A customer electing to receive service under a tariff or
2 contract approved by the commission shall continue to receive
3 service under the tariff or contract until either of the following
4 occurs:

5 (A) The customer no longer meets the eligibility requirements
6 for receiving service pursuant to the tariff or contract.

7 (B) The period of service established by the commission
8 pursuant to subdivision (d) is completed.

9 (2) Upon completion of the period of service established by the
10 commission pursuant to subdivision (d), the customer may elect
11 to renew receiving service pursuant to the tariff or contract
12 approved by the commission for the period of time then established
13 by the commission, or may elect to receive service under another
14 then applicable tariff.

15 ~~SEC. 4. Sections 2 and 3 of this act shall become operative on~~
16 ~~July 1, 2009.~~

17 ~~SEC. 5.~~

18 *SEC. 4.* No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 certain costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 With respect to certain other costs, no reimbursement is required
28 by this act pursuant to Section 6 of Article XIII B of the California
29 Constitution because a local agency or school district has the
30 authority to levy service charges, fees, or assessments sufficient
31 to pay for the program or level of service mandated by this act,
32 within the meaning of Section 17556 of the Government Code.